

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DANIEL JOHNSON, HELEN  
JOHNSON,

Plaintiffs,

Case Number: 11-15039

HON. AVERN COHN

v.

WAYNE COUNTY CORPORATION,  
BENNY NAPOLEON, CHIEF HEARD,  
SGT. FAUST, COMMANDER PANACKIA,  
SGT. BERRI, CPL. PETIGREW, DEPUTY  
MacFARLAND, UNKNOWN OFFICER  
JOHN DOE, EDUCATION TRAINING  
RESEARCH SERVICES, and MARY JANE  
REYNOLS,

Defendants.

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**ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. 23)**  
**AND**  
**DENYING AS MOOT PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT (Doc. 25)**

I.

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiffs are suing several defendants claiming constitutional violations. The matter was referred to a magistrate judge for pretrial proceedings. Summons were returned executed on defendants Wayne County Corporation, Sheriff Benny Napolean, Chief Heard, Sgt. Faust, Sgt. Berri, Cpl. Pettigrew, Deputy MacFarland. Answers were due on various dates as follows: March 30, 2012 (Pettigrew), April 3, 2012 (Wayne County Corporation, Berri, MacFarland, Heard, Faust) and April 9, 2012 (Napoleon).<sup>1</sup>

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<sup>1</sup>A summons was issued for Panackia but the docket sheet does not reflect that it was returned executed. In any event, Panackia joined in the answer to the complaint.

Defendants did not file answers on those dates, but rather filed a joint answer and affirmative defenses on May 10, 2012 (Doc. 23). That same day, plaintiffs filed a motion for default judgment against Berri, Faust, Heard, MacFarland, Napoleon, Pettigrew, and Wayne County Corporation (Doc. 25).

On June 27, 2012, the magistrate judge issued a report and recommendation (MJRR), recommending that plaintiffs' motion be denied as moot in light of defendants' answer and finding plaintiffs have suffered no prejudice.

## II.

Neither party has filed objections to the MJRR and the time for filing objections has passed. The failure to file objections to the MJRR waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the MJRR releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985). However, the Court has reviewed the MJRR and agrees with the magistrate judge.

## III.

Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. Plaintiffs' motion for default judgment is DENIED AS MOOT.

SO ORDERED.

Dated: July 19, 2012

s/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, July 19, 2012, by electronic and/or ordinary mail.

s/Julie Owens  
Case Manager, (313) 234-5160